

§513.5

32 CFR Ch. V (7-1-06 Edition)

(ii) The fees will have to be paid only if a lawsuit is filed.

(iii) The fees will not exceed 20 percent of the amount found due.

(7) A penalty for prepayment has been charged.

(8) A charge has been made for an insurance premium without satisfactory proof of—

(i) A policy or insurance certificate having been issued.

(ii) Delivery of a policy or certificate to the soldier within 30 days of issuance.

(9) The late charge is in excess of 5 percent of the late payment, or \$5, whichever is the lesser amount. Only one late charge may be made for any late installment. Late charges will not be made where an allotment has been timely filed, but payment has been delayed.

(10) The creditor has not given the soldier a chance to answer a previous inquiry. (Forty-five days for those in the contiguous 48 States and the District of Columbia; 60 days for all others.)

(11) The claimant is a debt collector without a court order or a signed letter of consent by the soldier. (See §513.1(g).)

(12) The debt is covered by an order of a bankruptcy court.

(e) *Cancellation of debt processing privilege.* (1) Creditors who refuse or fail repeatedly to follow these terms will be referred through channels to the Commander, USACFSC, Attn: DACF-IS-PA, Alex, Va 22331-0522, by the commander.

(2) The CG, USACFSC will—

(i) Cancel debt processing privileges if the queries clearly show that the creditor is—

(A) Not conforming with this regulation.

(B) Trying to make unreasonable use of the debt processing privilege.

(C) Trying to use the Army as a collection agency.

(ii) Inform commanders worldwide by electrical message that the debt processing privilege of a specific creditor has been revoked.

(iii) Inform the creditor that his or her debt processing privilege has been revoked and state the reasons for this action.

(f) *Exemptions from Full Disclosure and Standards of Fairness.* The debt complaints discussed below are exempt from the Full Disclosure and Standards of Fairness. This does not prevent the debtor from questioning service charges and negotiating a fair and reasonable settlement.

(1) Claims from private parties selling personal items (for example, car, furniture, appliances) on a one-time basis.

(2) Claims from companies or individuals giving services in which credit is given only to help the soldier (for example, utilities, milk, laundry, medical, and related services).

(3) Claims by endorsers, comakers, or lenders who intend only to help the soldier in getting credit. These claims, however, may not benefit the above through receipt of interest or otherwise.

(4) Contract for the purchase, sale, or rental of real estate.

(5) Claims in which the total unpaid amount does not exceed \$50.

(6) Claims based on a revolving or open-end credit account. The account must show—

(i) The periodic interest rate and the equivalent annual rate.

(ii) The balance to which the interest is applied to compute the charge.

(7) Claims as security liens on real property (for example, a house). This does not include improvements or repairs.

(8) Attorneys representing parties under §513.4(f) (1) through (7).

§513.5 Procedures governing non-active duty or discharged personnel.

(a) *Procedures governing nonactive duty personnel.* (1) Debt complaints against former soldiers or others not on active duty will be sent to the Commander, U.S. Army Reserve Personnel Center (ARPERCEN), ATTN: DARP-PSE-VS, 9700 Page Boulevard, St. Louis, MO 63132-5200.

(2) After ARPERCEN verifies the status, the following officials will act as prescribed below.

(i) Chief, National Guard Bureau, Wash DC 20310-2500, for soldiers of the Army National Guard.

(ii) The area commander concerned for Ready Reservists assigned to troop program units under their control. (See AR 140-1, para 1-6.)

(iii) ARPERCEN for nonunit soldiers assigned to Control Groups of the Ready Reserve, Standby Reserve, and Retired Reserve.

(3) The officials cited in §513.5(a)(2) will ensure that debt complaints are delivered to the person concerned, using military channels. When the complaint cannot be delivered through military channels, it will be sent to the last known mailing address of the person by certified mail, using PS Form 3811 (Return Receipt, Registered, Insured, and Certified Mail). It should be marked Return Receipt Requested—Deliver to Addressee Only. This form is available at U.S. post offices.

(4) After delivery of correspondence, the responsible official will advise the claimant—

(i) Of the date and method of delivery.

(ii) That the military department does not control the personal affairs of nonactive duty personnel. These personnel usually are in a civilian status and are not subject to military discipline. Therefore, the matter has been left to the person's discretion.

(iii) Of the person's mailing address only if the conditions in §513.5(c) are met.

(b) *Procedures governing discharged personnel.* (1) Debt complaints against persons who have been discharged from the service (that is, those now holding no military status) will be sent to ARPERCEN.

(2) ARPERCEN will return the correspondence, and all accompanying documentation, and advise the claimant—

(i) That the person is no longer a member of the Army or the Reserve Components.

(ii) Of the date of discharge.

(iii) That the Army no longer has control or authority over the discharged personnel. Therefore, the Army can take no further action in this matter.

(iv) Of the person's mailing address only if the conditions in §513.5(c) are met.

(c) *Conditions for disclosing mailing address.* Nonactive duty and discharged personnel's mailing addresses will not be disclosed unless—

(1) The person consents in writing to the release of his or her address.

(2) The claimant sends a court order directing the release of the address.

(3) Any other reason that does not constitute a violation of the Privacy Act of 1974.

(d) *Retired personnel.* (1) The claimant may be advised that correspondence may be sent to the retired person as follows:

(i) Place correspondence in a stamped envelope with the retired person's name typed or printed on the envelope.

(ii) Place a stamped envelope in a second envelope and mail to Commander, ARPERCEN, Attn: DARP-PSE-VS, 9700 Page Boulevard, St. Louis, MO 63131-5200.

(2) ARPERCEN will forward the correspondence to the retired person, but cannot release the address per provisions of the Privacy Act of 1974.

APPENDIX A TO PART 513—REFERENCES

Section I

Required Publications.

AR 340-2

Maintenance and Disposition of Records in TOE Units of the Active Army, the Army Reserve and the National Guard. (Cited in §513.3(b)(2)).

AR 340-17

Release of Information and Records from Army Files. (Cited in §513.2(a)(3)(viii)(H)).

AR 340-18

The Army Functional Files System. (Cited in §513.3(b)(2)).

AR 340-21

The Army Privacy Program. (Cited in §§513.1(d)(5)(iv) and 513.2(a)(3)(viii)(H)).

AR 600-37

Unfavorable Information. (Cited in §513.3(b)(2) and (3)).

DA Pam 27-166

Soldiers' and Sailors' Civil Relief Act. (Cited in §513.4(b)).